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MEMORANDUM

Rec 006m 11-7-89

TO: SUSAN LINNER  
Reclamation Biologist/Permit Supervisor

THRU: LOWELL P. BRAXTON, Associate Director  
Division of Oil, Gas and Mining

FROM: BARBARA W. ROBERTS  
Assistant Attorney General

DATE: NOVEMBER 7, 1989

RE: Bond release for Blackhawk Coal Company, Willow Creek,  
ACT/007/002, folder #2, Carbon County, Utah.

RECEIVED  
NOV 07 1989

DIVISION OF  
OIL, GAS & MINING

In response to your request regarding the period of liability for vegetation success on a site approved for industrial development, I have reviewed the rules and the statute and offer the following advice.

The law seems to indicate that, where vegetation cover is required as a part of the reclamation plan, the extended period for measuring vegetation success must be followed. [R614-301-353]. There are no exceptions for industrial uses contained in that general provision for reclamation.

The only express discussion directed at an industrial post-mining use is found in R614-301-200 and -240. That rule speaks to the standard for measuring revegetation success by determining whether the cover is sufficient to control erosion. The inclusion of the two year time limitation seems to imply that the less burdensome standard will apply only where the site will be developed within two years following the cessation of mining activities. In other words, if the site was not developed within two years, the general standards for revegetation success would apply.

To apply the above to the situation at hand, Blackhawk Coal Company's first obligation is to revegetate all areas disturbed by mining activities. If, however, an industrial use has been approved and the site is developed within two years of the cessation of mining, Blackhawk must revegetate all areas which have been disturbed by mining except those which will not

be covered by the roads, parking lots, buildings, etc. that have been approved as post-mining uses.

After development of the site, the bond may be released for all except the revegetated acres. If no area needs to be revegetated, no bond need be retained.

Regardless of whether it is an industrial site or not, the extended period for liability is applicable to any revegetated sites. If, however, Blackhawk develops the site within the two years after mining ceases, it can take advantage of the less burdensome "erosion control only" vegetation success standard which is measured during the last two growing seasons of the applicable 5 or 10 year period of extended liability.

If you have any question on the above discussion, please feel free to contact me.